

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AMBIX INTERNATIONAL, INC.,)
a Florida Corporation,)
)
 Plaintiff,) 8:04CV342
)
)
vs.) ORDER
)
)
SAV-RX, L.L.C.,)
a Nebraska Corporation, and)
MELALEUCA, INC.,)
an Idaho Corporation,)
)
)
Defendants.)

This matter is before the court on the parties' Stipulated Motion to Amend Final Progression Order (Filing No. 37). Upon consideration,

IT IS ORDERED:

1. The parties' Stipulated Motion to Amend Final Progression Order (Filing No. 37) is granted. The Final Progression Order (Filing No. 30) is amended as set forth below.

2. **Deposition Deadline.** All depositions, whether or not they are intended to be used at trial, shall be completed by **December 30, 2005**. All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be served sufficiently early to allow rule time response before that date. Counsel may stipulate to extensions of time to respond to discovery requests in accordance with Fed. R. Civ. P. 29, as amended, but such extensions shall not extend any of the dates in this order; any requests for extensions of any of the deadlines herein shall be made by appropriate motion and order.

3. **Disclosure of Expert Witnesses.** The parties shall, as soon as practicable but **not later than December 15, 2005**, serve the opposing party with the statement required

by Fed. R. Civ. P. 26(a)(2) regarding each expert witness it expects to call to testify at trial pursuant to the provisions of Rule 702, 703 or 705, Fed. Rules of Evidence. Supplementation of these disclosures, if originally made prior to this deadline, shall be made on this deadline as to any information for which supplementation is addressed in Fed. R. Civ. P. 26(e). The testimony of the expert at trial shall be limited to the information disclosed in accordance with this paragraph.

4. **Pretrial Disclosures.** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

A. **Nonexpert Witnesses - On or before**

December 1, 2005: The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

5. **Motions in Limine.**

A. **Daubert Motions - Any motion *in limine* challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules of Evidence shall be filed on or before December 16, 2005,** in the absence of which any objection based upon said rule shall be deemed waived. **See Kumho Tire Co., Ltd. v. Carmichael**, 526 U.S. 137 (1999); **Daubert v. Merrell Dow Pharms.**, 509 U.S. 579 (1993).

DATED this 28th day of September, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge